IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

COMMERCIAL TAXES OFFICER

Versus

M/S. MAN SINGHKA OIL PRODUCT LTD.

S.B. SALES TAX REVISION PETITION NO.85/2006

DATE OF ORDER : 04/10/2006

Hon'ble Shri Justice Ajay Rastogi

Shri R.B. Mathur, for petitioner

BY THE COURT:

Instant revision petition has been filed against the order of Tax Board dated 15th December, 2003 whereby the order of the Assessing Authority levying tax on cement purchased at concessional rate has been set aside by the Dy. Commissioner [Appeals] and upheld by the Tax Board in the appeal preferred by the Revenue.

The assessee was assessed u/s.10(3) of the Rajasthan Sales Tax Act vide order dated 16th January, 1995 and after the assessment it was reopened u/s.12 of the Act and a demand was raised for a sum of Rs.2,98,788/- after recording a finding the cement which was purchased at concessional rate was utilized for construction of building which has not been utilized for the purpose of installation of plant and machinery. The Dy. Commissioner [Appeals] set aside the demand holding that the cement purchased at concessional rate was utilized for the purpose of installation of plant and machinery and no additional tax could have been levied upon the assessee. The appeal preferred by the Revenue

against the said order before the Tax Board was dismissed vide order dated 15th December, 2003.

This fact remain undisputed even at the stage of Assessing Authority that the cement purchased by the assessee at concessional rate was utilized for the purpose of construction of building where plant and machinery was to be installed and on the said premise the Dy. Commissioner [Appeals] and so also the Tax Board has recorded a finding that it was utilized for the purchase of plant and machinery and no additional tax could have been levied by the Assessing Authority on re-opening of the assessment.

I do not find any error in the finding recorded by the Dy. Commissioner [Appeals] and so also the Tax Board under the order impugned. No question of law arises for consideration in the present revision petition.

Consequently, the revision petition stands dismissed.

[Ajay Rastogi],J.

FRBOHRA,JR.P.A.